

to result in the catching, taking, or harvesting of fish.

*Fishing Vessel Drill Conductor* means an individual who meets the training requirements of 46 CFR 28.270(c) for conducting drills and providing instruction once a month to each individual on board those vessels to which Subpart C of this section applies.

*Fishing Vessel Safety Instructor* means an individual or organization that has been accepted by the local Officer-in-Charge, Marine Inspection to train Fishing Vessel Drill Conductors to conduct drills and provide instruction on those vessels to which subpart C of this part applies.

*Gasoline* as used in this part includes gasoline-alcohol blends and any other fuel having a flash point of 110 °F (43.3 °C) or lower.

*Inflatable Buoyant Apparatus* means an inflatable buoyant apparatus approved by the Commandant.

*Inflatable Lifteraft* means an inflatable liferaft that is approved by the Commandant.

*Length* means the length listed on the vessel's Certificate of Documentation or Certificate of Number.

*Lifeboat* means a lifeboat approved by the Commandant.

*Liferaft* means a liferaft approved by the Commandant.

*Major conversion* means a conversion of a vessel that—

- (1) Substantially changes the dimensions or carrying capacity of the vessel;
- (2) Changes the type of the vessel;
- (3) Substantially prolongs the life of the vessel; or
- (4) Otherwise so changes the vessel that it is essentially a new vessel, as determined by the Commandant.

*Mile* means a nautical mile.

*North Pacific Area* means all waters of the North Pacific Ocean and Bering Sea north of 48°30' north latitude including waters in contiguous bays, inlets, rivers, and sounds.

*Officer in Charge, Marine Inspection (OCMI)* means an officer of the Coast Guard who commands a Marine Inspection Zone described in 33 CFR part 3 or an authorized representative of that officer.

*Open to the atmosphere* means a space that has at least 15 square inches (9680

square millimeters) of open area directly exposed to the atmosphere for each cubic foot (0.0283 cubic meters) of net volume of the space.

*Operating station* means the principal steering station on the vessel from which the vessel is normally navigated.

*Pre-engineered* means, when referring to a fixed gas fire extinguishing system, a system that is designed and tested to be suitable for installation as a complete unit in a space of a set volume, without modification, regardless of the vessel on which installed.

*Similarly qualified organization* means an organization which has been designated by the Commandant for the purpose of classing or examining commercial fishing industry vessels under the provisions of § 28.76.

*Switchboard* means an electrical panel which receives power from a generator, battery, or other electrical power source and distributes power directly or indirectly to all equipment supplied by the power source.

*Warm water* means water where the monthly mean low water temperature is normally more than 59° F. (15° C.).

*Watertight* means designed and constructed to withstand a static head of water without any leakage, except that "watertight" for the purposes of electrical equipment means enclosed so that equipment does not leak when a stream of water from a hose with a nozzle one inch (25.4 millimeters) in diameter that delivers at least 65 gallons (246 liters) per minute is played on the enclosure from any direction from a distance of 10 feet (3 meters) for five minutes.

*Weather deck* means the uppermost deck exposed to the weather to which a weathertight sideshell extends.

*Weathertight* means that water will not penetrate into the unit in any sea condition.

[CGD 88-079, 56 FR 40393, Aug. 14, 1991, as amended by CGD 94-025, 60 FR 54444, Oct. 24, 1995; CGD 96-041, 61 FR 50726, Sept. 27, 1996; CGD 96-046, 61 FR 57272, Nov. 5, 1996; USCG-2001-9044, 68 FR 42602, July 18, 2003]

#### § 28.60 Exemption letter.

(a) *Types of exemptions.* (1) *Specific exemption* means an exemption for an individual commercial fishing industry vessel.

(2) *Class exemption* means an exemption for a class or fleet of commercial fishing industry vessels.

(b) *Exemption procedure.* A request for an exemption of either type must be in writing, have specific reasons for the request, and be sent to the Coast Guard District Office having jurisdiction over the waters where the vessel(s) will be operating. Coast Guard District geographical areas are described in 33 CFR part 3. The District Commander will review the request to determine that:

(1) Good cause exists for granting an exemption; and

(2) The safety of the vessel and those on board will not be adversely affected.

(c) The District Commander will either approve or deny the request in writing. In granting a request, the District Commander will specify the terms under which the exemption is granted and distribute the letter describing these terms to the party or parties requesting the exemption.

(d) *Exemption letter.* Exemption letters, or suitable copies, describing the terms under which the exemption is granted shall be maintained at all times on board each vessel to which any exemption applies.

(e) *Right of appeal.* Any person directly affected by a decision or action taken under this part may appeal in accordance with § 1.03 of this chapter.

(f) *Rescinding an exemption letter.* Exemptions granted may be rescinded by the District Commander if it is subsequently determined that the safety of the vessel and those onboard is adversely affected.

[CDG 96–046, 62 FR 46675, Sept. 4, 1997]

#### § 28.65 Termination of unsafe operations.

(a) A Coast Guard Boarding Officer may direct the master or individual in charge of a vessel, with the concurrence of the District Commander, or staff authorized by the District Commander, to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the Boarding Officer observes the vessel being operated in an unsafe manner and determines that an especially hazardous condition exists. This may include directing the master or individual in charge of the vessel to return

the vessel to a mooring and remain there until the situation creating the especially hazardous condition is corrected or other specific action is taken.

(b) Hazardous conditions include, but are not limited to, operation with—

(1) An insufficient number of life-saving equipment on board, to include serviceable Personal Flotation Devices (PFDs), serviceable immersion suits, or adequate survival craft capacity.

(2) An inoperable Emergency Position Indicating Radio Beacon (EPIRB) or radio communication equipment when required by regulation. There should be at least one operable means of communicating distress. When both are required, then at least one must be in operable condition to avoid termination of the voyage;

(3) Inadequate firefighting equipment on board;

(4) Excessive volatile fuel (gasoline or solvents) or volatile fuel vapors in bilges;

(5) Instability resulting from overloading, improper loading or lack of freeboard;

(6) Inoperable bilge system;

(7) Intoxication of the master or individual in charge of a commercial fishing vessel. An individual is intoxicated when he/she is operating a commercial fishing vessel and has an alcohol concentration of .04 percent, or the intoxicant's effect on the person's manner, disposition, speech, muscular movement, general appearance or behavior is apparent by observation;

(8) A lack of adequate operable navigation lights during periods of reduced visibility;

(9) Watertight closures missing or inoperable;

(10) Flooding or uncontrolled leakage in any space; or

(11) A missing or expired certificate of class, as required by 46 U.S.C. 4503(1), for a fish processing vessel.

(c) A Coast Guard Boarding Officer may direct the individual in charge of a fish processing vessel that is missing a Load Line Certificate, or that does not comply with the provisions of the Load Line Certificate issued by the American Bureau of Shipping or a similarly qualified organization, to return the vessel to a mooring and to remain